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12 Attorneys for Fifth Third Mortgage Company

13 **UNITED STATES BANKRUPTCY COURT**  
14  
15 **DISTRICT OF NEVADA**

16 In re

17 SCHULTE PROPERTIES LLC,

18 Debtor.

19 Case No. 18-12734-mkn

20 Chapter 11

21 **AMENDED NOTICE OF HEARING ON**  
22 **FIFTH THIRD MORTGAGE**  
23 **COMPANY'S MOTION FOR**  
24 **PROTECTIVE ORDER OR, IN THE**  
25 **ALTERNATIVE, MOTION FOR**  
26 **MODIFICATION OF SUBPOENA [FED.**  
27 **R. CIV. PROC. 26(c); FED R. BANKR.**  
28 **PROC. 7026; LBR 7037]**

29 **Hearing:**

30 Date: July 28, 2021  
31 Time: 9:30am  
32 Judge: Honorable Mike K. Nakagawa  
33 Courtroom:2

34 Pursuant to Federal Rule of Civil Procedure 26(c), adopted by Bankruptcy Rule of Civil  
35 Procedure 7026, *Creditor* Fifth Third Mortgage Company ("Fifth Third") hereby provides this  
36 *Amended Notice of Hearing* on the Motion for Protective Order pursuant to Fed. R. Civ. P. 26(c)  
37 and Memorandum of Points and Authorities in support thereof filed on June 11, 2021 at Docket  
38 No. 863.

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2       The above captioned hearing on the Motion is scheduled for July 28, 2021 at 9:30am before  
3 the Honorable Mike K. Nakagawa at the U.S. Bankruptcy Court for the District of Nevada – Las  
4 Vegas Division.

5       **PLEASE TAKE NOTICE** that Creditor Fifth Third Mortgage Company (“Fifth Third”)  
6 hereby moves this Court pursuant to Federal Rules of Civil Procedure, Rule 26(b)(2)(C)(i) and  
7 26(c) adopted by Bankruptcy Rule of Civil Procedure 7026, for a protective order against the  
8 Debtor, Schulte Properties, LLC’s (“Debtor”) *Subpoena Duces Tecum* (“Subpoena”), which seeks  
9 production of documents from Fifth Third.

10       The Motion is made on the grounds that documents Debtor requests were either: (i) already  
11 produced by Fifth Third; (ii) equally available to Debtor; or (iii) objectionable as outlined in Fifth  
12 Third’s Responses to the original production requests. To the extent Debtor was dissatisfied with  
13 Fifth Third’s Responses to the production requests, Debtor failed to meet and confer regarding the  
14 Responses, file a motion to compel seeking additional production, or request a ruling on Fifth  
15 Third’s objections to the discovery requests. In the meantime, the discovery period expired. Debtor  
16 now seeks the same documents from Fifth Third. Debtor’s continued pursuit of said documents is  
17 inappropriate, burdensome, and an abuse of the judicial process.

18       Based on the foregoing, Fifth Third requests the Court issue a protective order preventing  
19 Debtor from continuing its pursuit of: (1) documents already produced by Fifth Third; (2)  
20 documents already in the Debtor’s possession, or equally available to the Debtor; (3) irrelevant  
21 documents that are not the subject of a current contested matter between the Parties; (4) privileged,  
22 proprietary, or confidential documents of Fifth Third, which are irrelevant to a contested matter;  
23 (5) and any other discovery not based on Fifth Third’s pending Plan Objection.

24       Fifth Third attempted to circumvent the need to file the present Motion by sending a meet  
25 and confer letter to Debtor’s counsel. Fifth Third’s advised Debtor it intended to file the instant  
26 Motion for Protective Order absent the withdrawal of the Subpoena. To date, Debtor has yet to  
27 withdraw the Subpoena. Based upon the foregoing, Fifth Third had no choice but to seek protection  
28 from the Court.

This Motion is based on this Notice of Motion and Motion, the Declaration of Eddie R. Jimenez, the accompanying Memorandum of Points and Authorities, and the pleadings and papers on file in this action.

**PLEASE ALSO TAKE NOTICE** that the above captioned hearing on the Motion is scheduled for July 28, 2021 at 9:30am before the Honorable Mike K. Nakagawa at the U.S. Bankruptcy Court for the District of Nevada – Las Vegas Division.

**PLEASE ALSO TAKE NOTICE** that unless the Court orders otherwise, any party opposing this Motion must file and serve any objections or oppositions no later than fourteen (14) days preceding the hearing date for the Motion in accordance with LR 9014(d). The opposition must set forth all relevant facts and any relevant legal authority. An opposition must be supported by affidavits or declarations that conform to the provisions of LR 9014(c).

If you object to the relief requested, you *must* file a **WRITTEN** response to this pleading with the court. You *must* also serve your written response on the person who sent you this notice.

If you do not file a written response with the court, or if you do not serve your written response on the person who sent you this notice, then:

- The court may *refuse to allow you to speak* at the scheduled hearing; and
- The court may *rule against you* without formally calling the matter at the hearing.

## ALDRIDGE PITE, LLP

Dated: July 1, 2021

*/s/ Eddie R. Jimenez*

EDDIE R. JIMENEZ

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12 **UNITED STATES BANKRUPTCY COURT**

13 **DISTRICT OF NEVADA**

14 In re  
15 SCHULTE PROPERTIES LLC,  
16 Debtor.

Bankruptcy Case No. 18-12734-mkn  
Chapter 11

**CERTIFICATE OF SERVICE**

17 I, Lauren Timby declare that:

18 I am employed by Aldridge Pite, LLP. My business address is: 4375 Jutland Drive, Suite  
19 200; P.O. Box 17933, San Diego, CA 92177-0933. I am over the age of eighteen years and not a  
20 party to this cause.

21 On July 1, 2021, I caused the AMENDED NOTICE OF HEARING FIFTH THIRD  
22 MORTGAGE COMPANY'S MOTION FOR PROTECTIVE ORDER OR, IN THE  
23 ALTERNATIVE, MOTION FOR MODIFICATION OF SUBPOENA [FED. R. CIV. PROC.  
24 26(c); FED R. BANKR. PROC. 7026; LBR 7037] to be served on the parties listed herein via  
25 electronic means through the Court's CM/ECF system or by placing a copy thereof enclosed in a  
26 sealed envelope with postage thereon fully prepaid in the United States Mail, addressed as  
27 follows:

28 /./.

1 /./.

2 Schulte Properties LLC  
9811 W. Charleston Blvd Ste 2-351  
3 Las Vegas, NV 89117

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6 Department of Justice  
7 300 Las Vegas Boulevard, SO.  
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USTPRegion17.LV. ECF@usdoj.gov

14 /s/ Lauren Timby

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